



## Council Communication

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS

**FROM:** KELLY A. PATTON, ECONOMIC DEVELOPMENT ADMINISTRATOR

**THROUGH:** DAN HENDERSON, CECD, ECONOMIC DEVELOPMENT MANAGER  
PATRICK BANGER, TOWN MANAGER

**MEETING DATE:** APRIL 19, 2012 Contract No. 2012-2105-0218

**SUBJECT:** AMENDMENT TO GROUND LEASE BETWEEN THE TOWN OF GILBERT AND HELIAE DEVELOPMENT, LLC

<b>STRATEGIC INITIATIVE:</b>	Economic Development
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**LEGAL REVIEW**☒ Complete☐ N/A**FINANCIAL REVIEW**☐ Complete☒ N/A**RECOMMENDED MOTION**

**APPROVE AMENDMENT NO. 1 TO THE GROUND LEASE BETWEEN THE TOWN OF GILBERT AND HELIAE DEVELOPMENT, LLC.**

**BACKGROUND/DISCUSSION**

On March 8, 2012 the Town of Gilbert entered into a ground lease with Heliae Development, LLC for the lease of ten acres of land located south of the 202 freeway, north of Germann Road, east of Gilbert Road and west of Lindsay Road. The ground lease includes an option for Heliae Development, LLC to add an additional ten acres to the ground lease. The leased property and the option parcel are located on only a portion of a larger parcel owned by Gilbert.

During the course of the negotiations with Heliae Development, LLC, Gilbert and Heliae agreed to adjust the location of the leased property and the option parcel in the ground lease. However, the new legal descriptions for both parcels were not changed in the final ground lease approved by the Town Council. The purpose of this amendment is to correct that error.

The amendment was reviewed for form by Susan Goodwin of the Town Attorneys office.

**FINANCIAL IMPACT**

None.

**STAFF RECOMMENDATION**

Approve Amendment No. 1 to the Ground Lease between the Town of Gilbert and Heliae Development, LLC.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kelly A. Patton". The signature is written in a cursive, flowing style.

Kelly A. Patton  
Economic Development Administrator

Attachments and Enclosures: Amendment No. 1

AMENDMENT NO. 1

GROUND LEASE BETWEEN THE TOWN OF GILBERT AND HELIAE DEVELOPMENT,  
LLC (Land Lease No. 2012-2105-0218)

This Amendment No. 1 to the Ground Lease between the Town of Gilbert, Arizona ("Landlord") and Heliae Development, LLC, a Delaware limited liability company ("Tenant"), is entered into this \_\_\_\_ day of April, 2012.

WHEREAS, the Town and Contractor entered into the Ground Lease dated March 8, 2012 for the lease of certain property owned by Landlord ("Ground Lease");

WHEREAS, the legal description of the real property leased by Landlord to Tenant as set forth on Exhibit A to the Ground Lease is incorrect and the parties desire to correct the legal description;

WHEREAS, the legal description of the real property on which Tenant has an option to add an additional ten acres to the leased property as set forth on Exhibit B to the Ground Lease is incorrect and the parties desire to correct the legal description.

NOW, THEREFORE, Landlord and Tenant agree that the Ground Lease shall be amended as follows:

1. Exhibit A to the Ground Lease shall be amended as set forth on the attached Exhibit A.
2. Exhibit B to the Ground Lease shall be amended as set forth on the attached Exhibit B.
3. All other provisions of the Ground Lease shall remain in full force and effect.

Dated this \_\_\_\_ day of April, 2012.

LANDLORD

\_\_\_\_\_  
John W. Lewis, Mayor

ATTEST:

\_\_\_\_\_  
Catherine A. Templeton, Town Clerk

TENANT

\_\_\_\_\_  
Its: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorneys  
Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.  
By: \_\_\_\_\_

**Phase 1**

**Legal Description**

**The north 420.92 feet of the following described parcel of land:**

**That portion of the following described property located in the Southeast quarter of Section 6, Township 2 South, Range 6 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, which lies South of the following described line:**

**PROPERTY DESCRIPTION:**

**Part of the Southeast quarter of Section 6, Township 2 South, Range 6 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:**

**COMMENCING at the South quarter corner of said Section 6;  
THENCE North 00 degrees 24 minutes 51 seconds East along the West line of said Southeast quarter, a distance of 40.00 feet to the point of beginning;  
THENCE North 89 degrees 17 minutes 43 seconds East along a line 40.00 feet North of and parallel to the South line of said Section 6, a distance of 872.16 feet (872.155 feet, measured);  
THENCE North 06 degrees 23 minutes 57 seconds East, a distance of 2607.56 feet (2607.566 feet, measured) to a point on the North line of said Southeast quarter of Section 6;  
THENCE South 89 degrees 33 minutes 31 seconds West along said North line, a distance of 1144.00 feet (1144.001 feet, measured) to the Northwest corner of said Southeast quarter of Section 6;  
THENCE South 00 degrees 24 minutes 51 seconds West along the West line of said Southeast quarter of Section 6, a distance of 2593.25 feet to the point of beginning.**

**LINE DESCRIPTION:**

**COMMENCING at a rebar with cap marking the center of said Section 6, being North 0 degrees 04 minutes 34 seconds East, 2631.95 feet from a Maricopa County Department of Transportation brass cap in a handhole marking the South quarter corner of said Section 6;  
THENCE along the North-South mid-section line of said Section 6, South 0 degrees 04 minutes 34 seconds West, 795.34 feet to the point of beginning;  
THENCE South 89 degrees 06 minutes 02 seconds East, 2541.75 feet;  
THENCE North 89 degrees 09 minutes 30 seconds East, 60.96 feet;  
THENCE from a local tangent bearing of South 14 degrees 34 minutes 38 seconds East along a curve to the right, having a radius of 3329.04 feet, a length of 234.76 feet to the point of ending on the East line of said Section 6, being South 0 degrees 06 minutes 26 seconds East, 1099.81 feet from a Maricopa County Department of Transportation brass cap marking the East quarter corner of said Section 6.**

**Containing approximately 10 acres.**

**Phase 2**

**Legal Description**

**The north 862 feet of the following described parcel of land:**

**That portion of the following described property located in the Southeast quarter of Section 6, Township 2 South, Range 6 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, which lies South of the following described line:**

**PROPERTY DESCRIPTION:**

**Part of the Southeast quarter of Section 6, Township 2 South, Range 6 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:**

**COMMENCING at the South quarter corner of said Section 6;  
THENCE North 00 degrees 24 minutes 51 seconds East along the West line of said Southeast quarter, a distance of 40.00 feet to the point of beginning;  
THENCE North 89 degrees 17 minutes 43 seconds East along a line 40.00 feet North of and parallel to the South line of said Section 6, a distance of 872.16 feet (872.155 feet, measured);  
THENCE North 06 degrees 23 minutes 57 seconds East, a distance of 2607.56 feet (2607.566 feet, measured) to a point on the North line of said Southeast quarter of Section 6;  
THENCE South 89 degrees 33 minutes 31 seconds West along said North line, a distance of 1144.00 feet (1144.001 feet, measured) to the Northwest corner of said Southeast quarter of Section 6;  
THENCE South 00 degrees 24 minutes 51 seconds West along the West line of said Southeast quarter of Section 6, a distance of 2593.25 feet to the point of beginning.**

**LINE DESCRIPTION:**

**COMMENCING at a rebar with cap marking the center of said Section 6, being North 0 degrees 04 minutes 34 seconds East, 2631.95 feet from a Maricopa County Department of Transportation brass cap in a handhole marking the South quarter corner of said Section 6;  
THENCE along the North-South mid-section line of said Section 6, South 0 degrees 04 minutes 34 seconds West, 795.34 feet to the point of beginning;  
THENCE South 89 degrees 06 minutes 02 seconds East, 2541.75 feet;  
THENCE North 89 degrees 09 minutes 30 seconds East, 60.96 feet;  
THENCE from a local tangent bearing of South 14 degrees 34 minutes 38 seconds East along a curve to the right, having a radius of 3329.04 feet, a length of 234.76 feet to the point of ending on the East line of said Section 6, being South 0 degrees 06 minutes 26 seconds East, 1099.81 feet from a Maricopa County Department of Transportation brass cap marking the East quarter corner of said Section 6.**

**Except the north 420.92 feet,**

**Containing approximately 10 acres.**